

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHELE CELESTIN,

Plaintiff,

07 CV 5674 (DAB)

v.

ANSWER

FOUNTAIN HOUSE, INC.,

Defendant.

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Defendant Fountain House, Inc. ("Fountain House"), by its undersigned attorneys, answers the Complaint herein as follows:

1A. Denies the allegations set forth in the unnumbered paragraph on the first page of the Complaint.

1B. Denies the allegations set forth in the unnumbered paragraph on the top of the second page of the Complaint, except admits that the Court has jurisdiction by virtue of 28 U.S.C. §§ 1331 and 1343.

1C. Denies knowledge or information sufficient to form a belief concerning the allegations set forth in Paragraph 1 of the Complaint.

2. Admits the allegations set forth in Paragraph 2.

3. Admits the allegations set forth in Paragraph 3.

4. Denies the allegations set forth in Paragraph 4.

5. Denies the allegations set forth in Paragraph 5.

6. Avers that Paragraph 6 contains no allegations to which to respond.

7. Denies the allegations set forth in Paragraph 7.

8. Denies the allegations set forth in Paragraph 8, except admits that the Plaintiff was employed by Fountain House as a residential staff member and was assigned to the overnight shift.

9. Avers that Paragraph 9 has not been completed by the Plaintiff and therefore contains no allegations to which to respond.

10. Denies the allegations set forth in Paragraph 10.

11. Denies the allegations set forth in Paragraph 11.

12. Admits the allegations set forth in Paragraph 12.

FIRST AFFIRMATIVE DEFENSE

13. The Complaint was not timely served in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

SECOND AFFIRMATIVE DEFENSE

14. The Complaint fails to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

15. The Plaintiff has not suffered any damages, or has failed to mitigate her damages.

FOURTH AFFIRMATIVE DEFENSE

16. Fountain House is entitled to a set-off against any damage award in the amount of the sum the Plaintiff earned or could have earned through reasonable diligence.

WHEREFORE, Fountain House respectfully requests that the Court dismiss the Complaint with prejudice, and order whatever further relief for Fountain House it may deem just and proper.

Dated: December 10, 2007
New York, New York

Respectfully submitted,



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